

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DAVID A. JACKSON-MACKAY,
AUSTIN D. ANDERSON, and
PRESTON WISENBAKER,

Plaintiffs,

vs.

VONNIE COTANT, et al.,

Defendants.

8:22CV10

**MEMORANDUM
AND ORDER**

This matter is before the court on its own motion for case-management purposes. Plaintiffs are prisoners who have been transferred to different facilities since being granted leave to proceed in forma pauperis (“IFP”).

The Prison Litigation Reform Act (“PLRA”) requires prisoners who proceed IFP to make an initial partial filing fee payment based on average monthly deposits to, or balances in, the prisoner’s trust account. *See* 28 U.S.C. § 1915(b)(1). It then becomes the responsibility of the prisoner’s institution to collect the outstanding balance and to forward monthly payments to the court:

After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month’s income credited to the prisoner’s account. The agency having custody of the prisoner shall forward payments from the prisoner’s account to the clerk of the court each time the amount in the account exceeds \$10 until the [district court’s] filing fees [of \$350] are paid.

28 U.S.C. § 1915(b)(2).

Plaintiff David A. Jackson-Mackay was granted leave to proceed IFP on January 26, 2022, and was directed to make an initial partial filing fee payment of \$17.20. *See* Filing 7. The court received a payment of \$18.00 on February 17, 2022,

but no further payments have been received. Thus, his unpaid balance is \$332.00. (Jackson-Mackay has also been assessed a \$505.00 appellate filing fee by the United States Court of Appeals for the Eighth Circuit, the collection of which will be the subject of a separate order. *See* Filing 62.)

Plaintiff Preston Wisenbaker was granted leave to proceed IFP on April 26, 2022, and was directed to make an initial partial filing fee payment of \$11.16. *See* Filing 21. The court received a payment of \$11.16 on May 6, 2022, but no further payments have been received. Thus, his unpaid balance is \$338.84.

Plaintiff Austin D. Anderson was granted leave to proceed IFP on May 10, 2022, without payment of an initial partial filing fee. *See* Filing 26. No monthly installments have been received. Thus, his unpaid balance is \$350.00. (The court entered an order on June 10, 2022, directing Anderson to file a new IFP application because it appeared from a change of address notification that he was no longer incarcerated, *see* Filing 38, but Anderson subsequently advised the court that he has been in custody continuously. *See* Filing 59. Therefore, the court's order of May 10, 2022, remains in effect, and no new IFP application is required.)

IT IS THEREFORE ORDERED:

1. The Clerk of Court is directed to send a copy of this Memorandum and Order and a copy of the January 26, 2022 Memorandum and Order (Filing 7) to the appropriate official at Plaintiff Jackson-Mackay's current penal institution. Such institution must collect monthly payments in the manner set forth in 28 U.S.C. § 1915(b)(2), quoted above, and forward those payments to the court until the \$350 filing fee is paid in full.
2. The Clerk of Court is directed to send a copy of this Memorandum and Order and a copy of the April 26, 2022 Memorandum and Order (Filing 21) to the appropriate official at Plaintiff Wisenbaker's current penal institution. Such institution must collect monthly payments in the manner set forth in 28 U.S.C. § 1915(b)(2), quoted above, and forward those payments to the court until the \$350 filing fee is paid in full.
3. The Clerk of Court is directed to send a copy of this Memorandum and Order and a copy of the May 10, 2022 Memorandum and Order (Filing 26)

to the appropriate official at Plaintiff Anderson's current penal institution. Such institution must collect monthly payments in the manner set forth in 28 U.S.C. § 1915(b)(2), quoted above, and forward those payments to the court until the \$350 filing fee is paid in full.

Dated this 14th day of September, 2022.

BY THE COURT:

A handwritten signature in blue ink that reads "Richard G. Kopf". The signature is written in a cursive, flowing style.

Richard G. Kopf
Senior United States District Judge